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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,445	02/05/2002	Kiyonori Sekiguchi	P21497	2596
7055	7590	11/16/2004		
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER BONZO, BRYCE P	
			ART UNIT	PAPER NUMBER
			2114	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/062,445

Applicant(s)

SEKIGUCHI, KIYONORI

Examiner

Bryce P Bonzo

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

NON-FINAL OFFICIAL ACTION

Status of the Claims

Claims 1-3 are rejected under 35 USC §102.

Claims 4 and 5 are rejected under 35 USC §103.

Claim 6 is rejected under 35 USC §112, first paragraph.

Rejections under 35 USC §112, first paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 6 specifically recites in ¶30 that not responding to RIP messages is the mechanism for detecting errors in the primary gateway apparatus. The only mechanism for detection is the watchdog timer waiting for a timeout of the respond period. Applicant has not provided an error messaging system between the primary and secondary gateways. Applicant has not provided any mechanism to analyze a response to a to a RIP transfer to indicate an error, change to the RIP protocol to carry

this response or mechanism to trigger the fail over in as result of a detecting a response indicating the main gateway is malfunctioning.

Rejections under 35 USC §102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 rejected under 35 U.S.C. 102(e) as being anticipated by Mimms (United States Patent Application Publication US 2002/0176355 A1).

As per claim 1, Mimms discloses:

A backup gateway apparatus connected to segments parallel to a main gateway apparatus in a home network, comprising:

a malfunctioning detection section that detects a malfunction of the main gateway apparatus (Page 5, ¶52, 53, 56), and

a control section that performs a partial backup function to maintain communication paths with outside lines, on behalf of the main gateway apparatus, when

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the main gateway apparatus is malfunctioning (page 5, ¶56 “when the primary router has been deemed to have failed to respond.”).

As per claim 2, Mimms discloses:

The backup gateway apparatus of claim 1,
wherein the control section periodically exchanges routing information with the main gateway apparatus, and performs routing function when the main gateway apparatus malfunctions (Page 4, ¶45 and Page 5, ¶52 “periodically forward a status request”).

As per claim 3, Mimms discloses:

The backup gateway apparatus of claim 2,
wherein the malfunctioning detection section determines that the main gateway apparatus is malfunctioning, if the main gateway apparatus does not respond to RIP (Page 4, ¶45, 50 RIP is the protocol used to do this function in a router), after a predetermined time interval since the routing information, which is maintained based on the RIP, is transmitted (Page 5, ¶53: “failure to respond”).

Rejections under 35 USC §103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mimms (United States Patent Application Publication US 2002/0176355 A1).

As per claim 4, Mimms discloses:

wherein the backup gateway apparatus is operated on network, and is embedded in an informational appliance that executes applications, in addition to the backup function for the main gateway apparatus (gateways are computer network devices and therefore are informational appliances; they execute applications specifically NAT and routing applications).

Mimms does not explicitly disclose:

wherein the backup gateway apparatus is operated on a *home* network.

Official Notice is given that notoriously well know to use gateways in home networks. One of the most instances of this is wireless router commonly used to connect to a single DSL or cable modem via Ethernet. This gateway provides access from one protocol/media to another for multiple devices on a different single media (for instance 802.11g wireless of laptops to the Ethernet input of the modem). Gateways provide the

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benefits of a single access point to multiple devices to the home user. Home users often have multiple devices on wireless networks, for instance printers, laptops, desktop PCs, PDAs, game consoles, satellite TV decoders and PVRs. The wireless gateway allows all these devices to form a network with a single access point to a larger network (the Internet). Thus it would have been obvious to incorporate the backup gateway system of Mimms into the home and thus extend the benefits of backup gateways to a large market who demand always on Internet access.

As per claim 5, Mimms discloses:

A home network system comprising:

a network (Figures 1, 2, 7 and 8);

a main gateway apparatus that connects the home network to outside lines (figure 1, item 110); and

a backup gateway apparatus that is provided with a malfunctioning detection section that detects a malfunction of the main gateway apparatus (figure 1, item 116), and a control section that performs a partial backup function to maintain communication paths with outside lines, on behalf of the main gateway apparatus, when the main gateway apparatus is malfunctioning (page 5, ¶56 "when the primary router has been deemed to have failed to respond.").

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryce P Bonzo whose telephone number is (571)272-3655. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bryce P. Bonzo
Bryce P Bonzo
Examiner
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